

VICTOR E. VAN DUZER

IBLA 84-731

Decided March 4, 1985

Appeal from a decision of the Wyoming State Office, Bureau of Land Management, rejecting noncompetitive oil and gas lease offer W 84378.

Affirmed.

1. Oil and Gas Leases: Applications: Drawings -- Oil and Gas Leases: Known Geologic Structure -- Oil and Gas Leases: Noncompetitive Leases

Lands within a known geologic structure of a producing oil or gas field may be leased only after competitive bidding under the provisions of 43 CFR 3120. A noncompetitive oil and gas lease offer is properly rejected where during the pendency thereof the land is determined to be within the known geologic structure of a producing oil or gas field.

APPEARANCES: Victor E. Van Duzer, pro se.

OPINION BY ADMINISTRATIVE JUDGE IRWIN

Victor E. Van Duzer has appealed from a decision of the Wyoming State Office, Bureau of Land Management (BLM), dated June 5, 1984, rejecting noncompetitive oil and gas lease offer W-84378. BLM's decision, based on the December 14, 1983, memorandum of the District Manager, Casper District Office, states that the lands in the offer are within an unnamed, undefined known geologic structure (KGS). KGS lands are leasable only through competitive bidding in accordance with 43 CFR 3120.

By notice dated April 15, 1983 (Transmittal of Lease Agreement/Request for First Year's Rental), appellant was advised that he was the successful drawee for parcel WY-447 in the January 1983 simultaneous oil and gas filing. The parcel contains 39.01 acres of land described as sec. 17, lot 3, T. 50 N., R. 95 W., Sixth Principal Meridian, Big Horn County, Wyoming. On April 22, 1983, appellant filed his signed offer to lease and stipulations. On May 18, 1983, BLM sent appellant a notice indicating the subject land is within the Wardel Unit and requested evidence of an agreement with the unit operator. On August 5, 1983, the required information was filed by the Gulf Oil Exploration and Production Company. On December 15, 1983, the Wyoming State Director, BLM, was notified by the Casper District Manager that all of sec. 17, T. 50 N., R. 95 W., was within an "undefined addition to an unnamed Field, undefined known geologic structure (KGS) effective December 9, 1983."

In his statement of reasons appellant indicates that all the requirements prerequisite to issuance of the lease were completed by August 3, 1983, and that the lease should have been issued at that time. Appellant contends that for the lease to be refused based on a December 9, 1983, KGS determination is "unreasonable."

[1] Section 17(b) of the Mineral Leasing Act, as amended, 30 U.S.C. § 226(b) (1982), provides that public domain lands which are within the KGS of a producing oil or gas field "shall be leased \* \* \* by competitive bidding." See also 43 CFR 3120.1(a). Lands classified as KGS land at any time prior to lease issuance must be leased competitively, and a noncompetitive lease offer for such lands must be rejected. Joseph A. Talladira, 83 IBLA 256, 258 (1984) and cases cited.

Appellant contends that BLM is at fault because of its delay in the issuance of the lease. The contention is without merit. On October 27, 1983, the Secretary issued the following order:

The Bureau of Land Management periodically issues oil and gas leases in areas outside of known geologic structures (KGS) on a noncompetitive basis through a drawing of applications filed on selected parcels. The use of this method of issuing leases known as simultaneous oil and gas leasing is temporarily suspended. The September drawing will not be held until it has been verified that the parcels are not included in a KGS. Nor will leases be issued from previous drawings that were not processed and completed prior to October 12, 1983, until it is determined that they are not located within a KGS. [Emphasis added.]

48 FR 49704 (1983).

The Federal district court stated in Angelina Holly Corp. v. Clark, 587 F. Supp. 1152, 1156 (D.D.C. 1984): "[I]t is plain that the Secretary is under no duty to issue or reject leases within a certain period of time and failure to act on those leases for several years is not unlawful."

Appellant has failed to demonstrate any error in the BLM decision.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Will A. Irwin  
Administrative Judge

We concur:

Franklin D. Arness  
Administrative Judge

R. W. Mullen  
Administrative Judge

